G. R. S. IX-5]

Previous references.

Cs. 201-18(1-9)
" 148-18(1-5)

1920.

(Cb)

File No. 260-20

Serial Nos. 1-4.

Later references.

Cs 62-22(104)

Present

Present
25/1/43

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Four.

Part B for August 1921

SUBJECT.

Extradition of Madanagirianna

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814) 20 The D. C. Kolar Dt.

No. J 5 18 D 1.8.21.

Requests him to instruct the police to institute proceedings in the proper British Court.

16/8/21.

WD 1888—GPB—16,826—23-7-21

F. R. S. 11] 1920-24

GENERAL AND REVENUE SECRETARIAT.

(C5)

NOTES.

File No. 2 60-20

FILE HEADING.

Extradition of Madanagiriamma

From

The Dt magistrate Kurnool

No. 931 Dated 21-6-21 Received 25-6-21

Diary No. 26615	Enclos. one pkt Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the records in C.C. no 27 of 1920-21 on the file of the Amalner and second class magistrate Malur. and requests that the Hon'ble the Resident be moved to issue an extradition warrant for the surrender of one Madanagiriamma concerned in the case

NOTES AND ORDERS.

Submd

The remand period expires by the 1st July. Complete records have been sent submitted with draft

Remand period expires on 1-7-21

8/ 25/6/21 Dy 26/6

The records disclose a prima facie case against the accused. Draft order may be appd.

D.M. 26/6

2nd Member

Please send to D.M.

NOTES—First Sheet.

G. R. S. III-2)

92

General and Revenue Secretariat. | File No. 260 of 19 20.

Serial No.	
2	To The Secy to the Resident no Pol 1300 dt 24.6.1921 Requests the issue of a warrant
3.	Jmr Secy to the Hon'ble the Resident Letter no 6014 dt 7.7.1921 Returns the records and states that a Prima facie case has not been made out against the accused and suggests that action may if necessary be taken to prosecute the accused under section 411 in British India by Durbar Heads Submitted with a draft to the Dt. magte 11.7.21 I am preparing a separate note in this case. In the meantime, please put up – 5 (1) the files regarding the sandalwood thefts in the Harsan Sub-Div. 1912 & 1913. (2) & previous files in which extradition warrants have been issued by the Residency Surrendering the accused for trial in the State under s. 411 I.P.C D. M. 16/7

Cls 245-15 (5-8)
Cls 97-15 (1-4)

NOTE—Contn. sheet.

Serial No.

The Residency letter states that there is no direct evidence of theft & that it would be difficult to presume theft under Illustration (a) to S. 114 of the Ind. Evidence Act on the ground that the stolen articles were traced to the accused more than a month after the commission of the offence.

8 It is submitted that it is very rarely that we can have direct evidence of theft. How what instances goods are to be considered recently stolen cannot be defined in any precise manner, and it is a question for the court to consider whether under the circumstances the maxim enunciated in S. 114 of the Evidence Act does or does not apply to the case.

9 Whether a presumption of theft or of receipt of stolen property should be drawn would depend on the circumstances, the length of time that has elapsed after the theft, how much of stolen property is found in the possession of the person in question, the circumstances which

Serial No.

what is or what is not recent possession is to be considered with reference to the nature of the article stolen.

Ratanlal's penal code, page 854.

Again, the Residency Agent suggests that the accused may be prosecuted by the Durbar officials in B. India. This procedure does not seem to be convenient. Sandalwood forms a State monopoly & the revenue arising therefrom is sure to be very much affected if facilities are not given by the British Govt for the detection of Sandalwood thefts which seem to be occurring on a very large scale. Under S. 180(6) Crim. Pro. code, a charge of receiving or retaining stolen goods may be inquired into & tried either by the Court within the local limits of whose jurisdn the goods were stolen, or by any Court within the local limits of whose jurisdn any of them were at any time dishonestly received or retained. The charge sheet in the present case is under S. 379 & 411 I. P. C.

NOTE—Contn. sheet.

Serial No.

the question of charging under either section being a matter for the decision of the Court depending upon the appreciation of evidence & a number of other circumstances.

3 If the accused is to be prosecuted only under S. 411 I. P. C. in B. India as suggested, the case may not end in conviction unless guilty knowledge can be satisfactorily established.

4. It seems desirable to explain the above aspects of the question to the Residency & to move them for the issue of an extradn warrant

Subd for orders

D. M. 1897

15

Rev. Secy

2nd Member

I think this is a case in which reconsideration may be asked for, though it is doubtful how far we may succeed. There are two or three points on which emphasis may be laid. 1). The nature of the article stolen, which in the

Serial No.

present case is a State monopoly, and is of such a nature that possession of it may safely raise a presumption of theft. 2). The provisions of Sec 180 (c) of the Cr.P.Code which allow even cases of receiving stolen property being tried in the place where the goods were stolen. 3). The desirability of Special facilities being afforded for the trial of offences relating to Sandalwood — in the interests of the Sandal revenue of the State, and in view of the frequent thefts that are being brought to light.

17. If agreed, a draft will be put up asking for reconsideration and the grant of extradition for reasons expounded above

2nd member) 14.7.21

489 19.7.21

[illegible]

[illegible] (1) Cannot this Govt. [illegible] receiving or retaining stolen property found in the possession of a man in Pondicherry territory be tried by the Courts — (2) Can an alteration be made in the alternative for theft or receiving stolen property be tried in the same trial & can the necessary be carried out under the Code

NOTE.—Contn. sheet

G. R. S. III-2.

General and Revenue Secretariat. | File No. 553 of 191

Serial No.

As regards point (1)

Kind reference is invited to illustration (b) of Section 180 of the Criminal Procedure code Repatriation of 1904 - stating that a charge of receiving or retaining stolen goods may be inquired into or tried by a court within whose jurisdiction the goods were stolen. Hence the offence may be tried by our courts. Cases of receiving stolen property have been tried by our courts abroad vide ch file (48-18 and 201-18 * chs 1-5) ~~(3 Cap. 9 + 11)~~ (Flag H)

2) As regards 2 point, Section 236 Cr. P. C. is clear. The illustration to that section clearly provides that a case of theft or stolen property may be tried at ~~at~~ the alternative. and the section provides that such charges may be tried at once.

21/7/21 (Second member)

2b) The request for extradition may well be pressed again, I think, the provisions ref^d to being cited

22/7 hm 22.7.21

553 22.7.21

2c) But in 17 Mysore Law Journal page 77 - the offence of receiving or retaining stolen property by a British subject cannot be tried by Mysore Courts. There is no evidence before that Court [illegible]

NOTE.—Contn. sheet

G. R. S. III-2]

General and Revenue Secretariat. | File No. 260 of 1920

Serial No.

4 30 To D.C. Kolar Dt.

No J 518 Dt 1-8-1921

Requests him to instruct the police to institute proceedings in the proper British court

27) The draft as per paragraph 24 submitted (files 31/32 of 21 linked)

Submitted

Linked

28 This may be recorded. It is not necessary that we should remind the D.C. magistrate whether he has instructed the Police to institute proceedings. If the case is strong he will do it. If not he may drop it.

13/11

13/8

NOTE—Contn. sheet.

Office of the District Magistrate,

Kolar District.

Dated, Camp Mysore, 18th June 1921.

M e m o.

The case is one of theft of sandalwood trees, cut and removed from a private land in the Malur Taluk. One Munisami, P.W.4, is a resident of the village of Anakarahalli, within a distance of about 2 miles from Berki village, Hosur Taluk, Salem District. ~~He holds~~ He holds among other lands, a garden which contains honge, tamarind sandalwood and other trees. About 4 or 5 months ago, he noticed that sandalwood trees had been cut and removed by stealth, on three occasions, the number of trees thus found missing, being eight. He at once reported the matter to his Patel, P.W.5, who on inspection of the locality, in company with P.W.6, found that the top branches of the sandal trees had been felled down, the heart wood, etc., being removed, and eventually the patel sent intimation to the Forest Range Officer of Bowringpet (P.W.3). The latter, in turn, sent reports to the Police of Malur, on 8th November 1920, proceeded to the village of Anakarahalli, inspected the garden, and found that 8 trees had been cut and removed, marks of recent sawing being also visible on the roots. He recorded a mahazar as to the result of the inspection conducted by him. In the course of private enquiry, he ascertained that the accused, one Madamagiriamma and others of Berki village used to commit thefts during nights. He accordingly went to Berki on 13th December 1920, and with the aid of the British Police Sub-Inspector, caused the search of the houses of the accused and others. In the accused's house, 82 pieces of sandalwood were found buried in a granary, covered with mud. Some pieces of bark, one saw and other impliments were also found in the hall of the house. On a careful comparison, it was discovered that the pieces found [illegible] with, and formed part of, the sandal trees, left damaged in the [illegible]. These pieces were also identified and the accused [illegible].

2. In this connection, it is to be noted that the [illegible] said to be the owner of the house, searched, accordingly [illegible] trees &, was absent at the time of the search, [illegible]

...ured in spite of the efforts made in that direction.

3. The above facts have been proved by the evidence of the ... witnesses examined for the prosecution. The evidence of P.W.s. 1, 2 & 3 who were present at the time of the search, viz., the ... Police Sub-Inspector, the village Munsiff of Berki and the ... Range Officer of Bowringpet respectively, amply proves that ... sandal pieces, barks and sawing implements were found in the ... of the accused at Berki and that the sandal pieces formed ... of the trees, stolen from the garden land of P.W.4.

4. ... who speak to the theft from his garden, P.W.5, the patel ... village and P.W.6, one Govindachar of the same place, have also ... that the pieces of sandalwood, found in the house of the ..., formed part and parcel of the trees, cut in the garden.

5. Thus, it may be seen that a prima facie case has been made out ... the accused, to warrant her trial before a court of law, for ... offence of theft, with which she stands charged.

District Magistrate,
Kolar District.

Cs. 260-20-4 (14

G. R. S. VII—S-III/37]

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE SECRETARIAT,

Dated Bangalore, 27th June 1921.

No. Pol 1300 Encl 2 & Records

FROM

Secretary to the Government of H. H. the Maharaja of Mysore.

To

Secretary
~~*First Assistant*~~ *to the Hon'ble the Resident in Mysore.*

SIR,

I am directed to forward herewith a copy of letter No. 931 dated 20th June 1921, from the District Magistrate of Kolar District, as also the records of preliminary enquiry (in original, to be obligingly returned when no longer required) in Criminal Case No. 88 of 1921 on the file of the Amildar ~~Commissioner~~ and Second Class Magistrate of the Malur Taluk in which one Madanageriamma a ~~native~~ resident of British India ~~Bellikulage, Kasaba Hobli~~ is charged with the offence of Theft of Sandalwood punishable under Section 379 I. P. Code, and to request that an extradition warrant may kindly be issued to the District Magistrate of Salem District for the surrender of the said accused to the Police Inspector of the Malur Taluk at Malur.

2. The usual statement containing the necessary particulars for the preparation of the warrant is also enclosed.

I have the honour to be,
Sir,
Your most obedient servant,

Secretary to Government.

W D 02267—GPB—500—30-5-17

place the scene of this offence in British India. The - - accused is a British subject and resides in British India. In the circumstances the issue of an extradition warrant does not appear to be proper.

3. I am accordingly to return the records received with your letter, and to suggest that if the Durbar think fit the necessary measures may be adopted to have the accused prosecuted under Section 411, Indian Penal Code in British India, by Durbar officials.

I have thehonour to be,

Sir,

Your most obedient servant,

Secretary to the Resident.

Reports, Page 77, the offence of receiving or retaining stolen property by a British subject cannot be tried by Mysore courts. I am therefore to request you to instruct the police to institute proceedings in the proper British Court.

2. The records received with your letter are herewith returned.

I have etc

W. 30/7

for Secretary

28/7/24

List of enclosures.

Copied by

Examined by.

WD 1744—GPB—30,000—19-3-19

G. R. S. VI—G/32]

SUBJECT.....

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Diary No. of letter replied to.....92.....

Section Cb

File No. 260-20

Serial No. 4

GENERAL AND REVENUE SECRETARIAT

( )

, *the* 191 .

No. J 578 Records

Date of issue ..... 4/8 .....

Signed by..... M Pms .....

To

The District Magistrate Kolar Dt

Sir,

With reference to your letter no' 931 J 21.6.1921 requesting that the Hon'ble the Resident be moved for the issue of an extradition warrant for the surrender of Madanapiriamma, accused in C.C. no 88 of 20-21 on the file of the Amildar and Second Class Magistrate Malur under section 379 I.P.C. I am directed to state that there is no evidence to show that the theft was committed by Madanapiriamma nor any evidence to show that she was found in possession of stolen property within the limits of the Mysore State. According to the decision reported in 17 Mysore Chief Court

from the records it does not appear that a prima facie case against the accused in the case of theft can be established that all that can be alleged against her is a charge of retaining stolen property under section 411 of the I.P.C. and the offence under section 411 I.P.C. is not one of the offences mentioned in the schedule to the Extradition Act in which the accused is to be surrendered and the property to be delivered in terms of section 16